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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Permanent Assembly for Human Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[23 May 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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The situation of the Sikh people in India

The events of June 1984

International Educational Development, Inc., the Association of Humanitarian Lawyers and Sikhs for Justice inform the Council that June 2014 marks the 30th anniversary of Indian Army's attack on the holiest Sikh shrine, the Golden Temple in Amritsar. Code named "Operation Blue Star, the attack resulted in the killing of several thousand unarmed and innocent pilgrims. This attack clearly violated the basic humanitarian law provisions for the protection of the civilian populations and for the protection of cultural objects and places of worship as set out, inter alia, in Article 3 Common to the Geneva Conventions of 1949 and Protocols Additional I and II to the Geneva Conventions. In our view, this attack also constituted an act of aggression according to the General Assembly Resolution 3314 (XXIX) of 14 December 1974 due to the status of the state of Punjab under the terms of the right to self-determination.

The ostensible aim was to target the leadership of the movement for right to self determination, who were nonetheless civilians. The level of force used in the attack was utterly incommensurate with a limited and eminently attainable aim to capture the Sikh leaders. Rather than a police action to arrest the leaders, seventy thousand troops using helicopter gunships, tanks and chemical gas, killed not only the leadership of the movement but also thousands of innocent Sikh pilgrims including children and women. In our view, the real objective was to terrorize the Sikh community so it would be too intimidates to support Bhindrawala's movement for right to self determination and plans to resist to state oppression.

One of the holiest day in June 1984 was chosen to launch this attack to maximize the loss of human life. Sri Akal Takht, the highest temporal seat of Sikhism, was reduced to rubble and the Sikh Reference Library, an irreplaceable collection of books, manuscripts, and artifacts bearing on all aspects of Sikh history, burned to ground. Thirty-seven other Sikh Gurudwaras were attacked across Punjab on the same day.

Although the June 1984 action by the Indian Army against the Sikhs and their religious objects and places of worship was in blatant violation of fundamental principles of law. Not a single inquiry has been conducted by the United Nations into the catastrophes perpetrated upon Sikh people in these events. Since 1984, the Sikh community worldwide commemorates their great loss, although in the Punjab these commemorations are muted due to fears of retaliation.

The Sikh claim to self-determination

The principle of self-determination is a norm of *jus cogens* in international law, and is prominently set out in Article 1 of the Charter and Article 1 of both covenants. Nonetheless, the right has been largely ignored since the end of the Commission on Human Rights when it was dropped as a separate agenda item at the Council. Because of this, a number of conflicts and situations of serious patterns of gross violations of human rights carried out against people in their historic homelands continues to plague the international community and the Council in particular. The situation of the Sikh people is one of these.

We believe that the Sikh claim to self-determination is particularly strong and clearly meets the five part test for self-determination: an identifiable territory; a history of self-governance in that territory; a distinct culture involving religion, language, social and other characteristics; a will for self-governance; and the capacity for self-governance.

- The Sikh Nation developed a national consciousness in the 17th century and established an independent and sovereign state in 1765 governed by Sikh rulers. This independent and sovereign Sikh state comprised the areas and territories of the currently Indian-held state of Punjab. The territory and leadership of the sovereign Sikh State was recognized by Great Britain and other European and Asian states until its conquest by the British in 1849 when it was the was the last nation to fall in the British conquest of the Indian subcontinent.

- The Sikh people of the Punjab have distinct religious, social, culture and linguistic characteristics.

- The Sikh people have shown a strong desire for sovereignty ever since the British left, and have worked continually for that end.

- The Sikh people clearly have the capacity for self-governance.

Continuing violations of the rights of the Sikh people

In spite of its strong claim for self-determination, when the British left India in 1947 the Sikh Nation was denied restoration of its pre-colonial independent status. Then in 1952 India promulgated its Constitution that in its Article 25(b)(2) abolished a separate identity of the Sikhs and classifies Sikhs as Hindu. The Sikh leadership was opposed to this and neither signed, ratified or endorsed this document.

Since the British have left, successive Indian governments have oppressed the Sikh communities leading to the catastrophe of 1984 but also continuing to date. Sikhs continue to seek and receive political asylum in other countries due to the on-going oppression. Sikhs are subjected to arrest and torture. Freedom of assembly and opinion are denied. A number of Sikh leaders have disappeared after being taken into custody. Participants in the 1984 events have been promoted to key positions in the Sikh areas, notably Sumedh Saini who was promoted to the post of Director General of Police in Punjab in 2012. Sikh leaders, organizations and publications are monitored, and the people threatened with the "terrorist" label if they publicly promote any form of autonomy.

Given the international law rule that the will of the people is the basis of government authority, the Sikhs in the Punjab should have an opportunity freely to express their will in open and fair elections or referenda. To date, this has not yet occurred. The Council will be faced with continuing and strong evidence of gross violations of the rights of the Sikh people in the years to come. In our view, the only remedy for the Sikhs is realization of the right to self-determination in a form acceptable to them.